

Regulation 28 Response to Coroner – Mentieth Close, Bletchley.

Prepared by [REDACTED] Director Environment and Property

Date 8 October 2024

(To be submitted by 10 October 2024)

Executive Summary

This note responds to the Regulation 28: Report to Prevent Future Deaths dated 28 August 2024 issued by the Senior Coroner for Milton Keynes in respect of the death of Moira Farnell.

The Council extends its deepest sympathies to her family.

The Council as the highway authority for the City of Milton Keynes is required by the Highways Act 1980 to maintain the public highway network in a condition that is safe for users. The public highway network includes footpaths, such as the footway at Mentieth Close.

To keep the highway in a safe condition we regularly inspect our network in accordance with the Council's Code of Practice for Highway Safety Inspections. This is a public document dated May 2022, which is in line with [well managed highway infrastructure 2016](#). This is national guidance and compliant with relevant statutory obligations. These documents are regularly reviewed and kept up to date by both the Council and the UK Roads Leadership Group to ensure they are always relevant and reflect national best practice.

The process for inspection and determination whether to act is a risk-based approach, with several factors being considered such as size, location, likelihood of danger, and other considerations that all play a part in the final determination. Applying these assessments against the national guidance and based on national training and qualifications, to arrive at a 'standard' national approach that all highway authorities adhere to.

Our codes of practice ensure that we fully comply with the nationally set out approach, and our records demonstrate we meet the minimum inspection frequency requirements and as the Highway Authority we are robust and responsive in our approach. This was demonstrated by our same day attendance after the first reported incident at Mentieth Close and our subsequent visits to check if all assessment considerations had been applied correctly and any lessons recorded.

Our records demonstrate that we carry out regular inspections to our assets including over 1,550 km of highway, 350 km of redway, over 600 bridges, 75,000 gullies, 58,000 streetlights and illuminated items plus over 130 roundabouts. The number of assets we look after is growing all the time with

new development areas and adoptions of roads and footways. Each year our highway network increases by 10 to 12km as we adopt new highway from developed areas.

Like all local authorities, we do not have limitless resources, so we prioritise what work we can do to fix immediate safety issues whilst also looking at how we can prolong the life of our assets and so we don't have to keep making regular, minor repairs.

Once a highways issue has been reported to us, we'll look at the details and if necessary, carry out an inspection and assess if it meets the minimum requirements for action based on the relevant codes of practice, detailed above. This process is based on the guidance, which dictates a risk analysis-based approach dependant on the specific sites and local factors. Where something exceeds the risk-based action level it will be recorded as a defect. If a defect is a high-risk safety issue, we will carry out emergency repairs or will close off an area for safety and plan the necessary works as soon as possible. Depending on the nature of the defect, sometimes they are added to our wider yearly capital programmes to be covered by project work at that location.

Summary of contact/actions at Mentieth Close

On the 18 April 2024, a member of the public reported to the highways service of the Council that an incident had occurred resulting in a personal injury, at Bala Close, with an alternative location of Mentieth Close added to notes.

In response, an inspection was carried out on the same day by a Council's highways inspector at both Bala Close and Mentieth Close. The Inspector who undertook the inspection found no defects, i.e. nothing met or exceeded thresholds as set out in the codes of practice or national guidance at either location, therefore no action was recorded by the inspector.

On the 19 April 2024 an internal email from the housing service was sent to the Director stating that a woman had fallen and injured herself at ■■■ Mentieth Close and was subsequently taken to hospital. This information was passed to highways on 19 April 2024 with the exact location.

On 22 April 2024 another member of the public reported to highways on the Mentieth Close incident and gave the exact location of the incident – ■■■ Mentieth Close.

As a result of these reports, and notwithstanding the inspector's finding of 18 April 2024, the Council carried out another site inspection on 24 April 2024 at ■■■ Mentieth Close this time by two different inspectors (working as a pair) for a review of the previous decision making / application of the code. Their conclusion of 'no actionable defects' was applied consistently in line with the codes of practice. Again, no area of the surface of the footway met the intervention criteria for action based on the national guidance and local code of practice, and therefore no defect was identified for repair following the inspection. Please see the photographs below from this inspection in annex A.

Enquiries recorded relating to Mentieth Close – The Lakes Estate, Bletchley

The Council has no history of relatable enquiries or similar reports at Mentieth Close for highways and landscape going back 25 years. The last 5 years for housing have also been checked to determine if the location has been previously reported.

Highways and Landscape

Landscape – 28.10.1999 – Opposite 27 – Collapsed wall

Landscape – 12.04.2000 – Side of No. 1 – report of a tree removed leaving chippings against wall

Landscape – 20.07.2000 – General complaint about grass cutting

Landscape – 29.09.2000 – No.3 – Tree Overgrown

Highways – 22.02.2002 – Wall of property damaged by JCB machine

Highways – 22.08.2002 – Missing cover

Landscape – 08.08.2022 – Tree outside 18, roots causing damage to house slabs, wall and pathway.

Inspected 12.09.2022, advised tree recently crown lifted, no action. Also advised resident to claim through Council Insurance.

Landscape – 18.10.23 – tree outside 18, tree large, leaves coming into bedroom, bathroom and rear garden. Pulling up house slabs and street paving is dangerous. Inspected, advised no action – no work justified.

Highways – 18.04.24 – Bala Close/Mentieth Close – Damaged footway – report of a fall causing injury (as listed above)

Highways – 22.04.2024 – ■■■ Mentieth Close - Report of a fall causing injury (as listed above).

We found records that 18 Mentieth Close made reports relating to the tree outside the property and relating to the pathway. Both the Landscape and Highway team inspected the location and concluded no risk-based action required. Please also refer to the Highway Authority inspection records below.

Housing

Apart from the email of 19 April 2024 from a Housing Officer no other contacts have been recorded at this location by the Housing Team or our Housing Contractor.

Routine Highways Safety Inspections – Footway Mentieth Close

As per the national guidance, all footways are routinely inspected in line with our 'Code of Practice for Highway Inspections'.

Our records show that in routine yearly cyclic inspections occurred for Mentieth Close in both 2022 and 2023 and no actionable defects were found in either year. There has been no previous report to highways of a defective footway in Mentieth Close.

Detailed below is a full list of routine inspections:

Routine Inspection – 20.08.2019 16 Mentieth relay 4 slabs – works complete (different location).

Routine Inspection – 2020 No routine estate inspections due to the pandemic.

Routine Inspection – 20.08.2021 Rear 38 – Steps requiring relaying – works complete.

Routine Inspection – 19.08.2022 No actionable defects found.

Routine Inspection – 18.08.2023 No actionable defects found.

Statutory Obligations and Codes of Practice

Under Section 41 of the Highways Act 1980, we (the Highway Authority/Milton Keynes City Council) have a duty to maintain the publicly adopted highway. Alongside this, section 58 of the Act outlines the duty for the authority to have a process of inspection and maintenance in place.

In undertaking this statutory duty, we carry out a pre-planned programme safety inspections of the Public Highway in accordance with its Code of Practice for Highway Inspections. Reactive inspections are undertaken when possible defects are reported to the service. The plan details the minimum levels of service for inspections and timescales for reactive repairs that arise from the Highway Authority's duty to maintain the highway and it is how local roads and footways are kept safe and serviceable for those who use them.

This Code of Practice was originally prepared in accordance with the national guidance in 'Well Maintained Highways Code' – 2013 – United Kingdom Roads Leadership Group (UKRLG). It included a defined intervention-based risk approach for managing defect repairs, which considers factors such as hierarchy of road/footway, depth of defect, importance of infrastructure to determine the priority of the repair required.

This national guidance was reviewed by UKRLG and updated in October 2016 and new documentation was issued as 'Well Managed Highways Infrastructure 2016'. The revised guidance states that it is for local authorities to decide and determine the dimension of a defect as a basis for their decision-making, and the new procedures are clearer and involve a stronger 'risk-based approach' with highway inspectors making a judgment on which repairs are done and how soon they are repaired.

Additionally, the new code uses 'Investigatory Level' rather than 'Intervention Level'. These levels are set considering existing case law associated with personal injury claims having gone through the law courts. This has been introduced to ensure that defects that present a high risk are repaired ahead of defects that by their location may cause a lesser hazard.

To ensure that the inspectors are correctly applying the 'investigatory level' risk assessment appropriately, all our inspectors are required to be qualified to City and Guilds 6033 Unit 301, Health and Safety and Unit 311 Highway Safety Inspection and have at least 3 years' experience.

The Milton Keynes City Highway Authority Code of Practice for Highways Inspections is reviewed and updated annually to ensure it considers any changes to guidance, statute, or internal policies.

In conclusion

- The Council will always undertake its statutory obligation as the Highway Authority to keep the highway safe and evidence this by its code of practice, routine inspections, and its works (either through urgent/reactive repairs or planned programmes).
- Our work is in line with the national guidance, 'Well managed Highway Infrastructure 2016'.
- The core of our local code of practice, as the national guidance, is that intervention criteria must be applied to justify actions. Routine and reactive inspections did not reveal any actionable defect(s) at Menteith Close.

- The process for inspection and determination of defect action is a risk-based approach, set out in national guidance, with several factors needing to be taken into consideration before a determination on whether a 'defect' requires actioning.
- All our inspectors are trained to national qualifications in the risk-based approach of the code and have the relevant experience.
- The Highway Authority immediately reviewed its inspection records and actions given the seriousness of the incident.
- Utilising our 'code of practice' and our qualified and trained inspectors, it was determined that in line with national guidance, during both routine inspections and the ad-hoc responsive inspections following the incident, that there is no actionable defect in this location.

Appendix A - Photos of footway [REDACTED] Mentieth Close – Lakes Estate – Bletchley (taken 24.04.24 and 03.05.24)











